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**FISCAL IMPACT STATEMENT**

**LS 7395**

**BILL NUMBER:** HB 1565

**NOTE PREPARED:** Jan 21, 2013

**BILL AMENDED:**

**SUBJECT:** Gaming.

**FIRST AUTHOR:** Rep. Eberhart

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill allows the Indiana Horse Racing Commission (IHRC) and Indiana Gaming Commission (IGC) to waive certain statutory requirements and prohibitions.

The bill authorizes the use of limited mobile gaming systems at satellite facilities.

The bill allows the IHRC to reduce the percentage that a permit holder is required to retain from amounts wagered if reducing the amount retained is in the best interests of horse racing in Indiana.

The bill excludes the total dollar amount of wagers made by a riverboat's or racino's patrons using noncashable vouchers, coupons, electronic credits, or electronic promotions provided by the licensee or operating agent from the adjusted gross receipts of the licensee or operating agent.

The bill authorizes riverboats to move inland to adjacent properties. The bill authorizes gambling games at facilities owned by a licensed owner or operating agent other than the riverboat. (Current law allows only card tournaments at sites other than the riverboat.)

The bill replaces the riverboat admissions tax with a supplemental wagering tax.

It authorizes table games at the racinos, and imposes a separate wagering tax on table games.

**Effective Date:** July 1, 2013.

**Summary of NET state impacts:** A summary of impacts from provisions in the bill on the state funds are specified in the table below:

| ENTITY / FUND            | FY 2014                       | FY 2015                       |
|--------------------------|-------------------------------|-------------------------------|
| State General Fund       | (\$67.3 M - \$107.9 M)        | (\$81.7 M - \$123.3 M)        |
| IEDC                     | (\$0.3 M - \$0.31 M)          | (\$0.3 M - \$0.31 M)          |
| Thoroughbred Breed Fund  | (\$0.4 M - \$0.7 M)           | (\$0.4 M - \$0.7 M)           |
| Standardbred Breed Fund  | (\$0.5 M - \$0.9 M)           | (\$0.5 M - \$0.9 M)           |
| Quarter Horse Breed Fund | (\$0.05 M - \$0.09 M)         | (\$0.05 M - \$0.09 M)         |
| <b>TOTAL</b>             | <b>(\$68.6 M - \$109.9 M)</b> | <b>(\$83.0 M - \$125.3 M)</b> |

**Explanation of State Expenditures:** *Admissions Tax Replaced with a Supplemental Wagering Tax:* The bill repeals the \$3 per patron riverboat admissions tax and replaces it with a 2.5% supplemental riverboat wagering tax. It is estimated that this change could increase state General Fund expenditures by \$15.6 M to \$17.6 M in FY 2015 for guarantee payments to local units, the State Fair Commission, and the Division of Mental Health.

The bill maintains the guarantee under current statute that local units and state agencies receiving admissions tax revenue (supplemental wagering tax revenue under the bill) will annually receive an amount equal to their FY 2002 admissions tax distribution. It is estimated that the supplemental wagering tax could generate less revenue than the current admissions tax which would increase the annual supplemental payment from the state General Fund under the guarantee beginning in September 2014. (See Explanation of State Revenues for a more detailed discussion.)

*Pari-Mutuel Wagering Handle Retained by Permit Holder* - The bill allows the IHRC, upon request of a horsemen's association, to reduce the statutorily specified shares of the pari-mutuel wagering handle that a permit holder retains under current statute if it is in the best interest of the horse racing industry. The reduction in amounts retained by the permit holder would be used to increase purses. A permit holder withholds: (1) 18% of the total of money wagered on each day at the racetrack or satellite facility; plus (2) an additional 3.5% of the total of all money wagered on exotic wagering pools on each day at the racetrack or satellite facility. Shares of the amounts withheld are required by statute to be retained by the permit holder and used for purses and payment of pari-mutuel taxes.

*Waiver of Certain Rules:* The bill allows the IGC and IHRC to waive certain requirements and prohibitions in current law if they are impractical or burdensome and the waiver is in the public interest and the best interest of the horse racing industry or gaming industry, as applicable. The bill specifies the laws that could not be waived under the provision.

**Explanation of State Revenues:** *Promotional Free Play Deduction for Riverboat Casinos and Racinos:* The bill reduces the taxable base for the riverboat wagering tax, the racino slot machine wagering tax, and the 15% payment to horsemen and other purposes beginning in FY 2014. The taxable base is reduced by allowing a deduction from adjusted gross receipts (AGR) from gaming for certain promotional allowances paid by the

casino/racino to gambling patrons. The estimated impact on state funds from the free play deduction is summarized in the table below.

| <b>Tax Type</b>                  | <b>Fund Type</b>   | <b>FY 2014</b>               | <b>FY 2015</b>               |
|----------------------------------|--------------------|------------------------------|------------------------------|
| Riverboat Wagering Tax           | State General Fund | (\$51.3 M - \$84.0 M)        | (\$50.3 M - \$82.0 M)        |
| Riverboat Wagering Tax           | IEDC               | (\$0.0 M - \$0.01 M)         | (\$0.0 M - \$0.01 M)         |
| Racino Slot Machine Wagering Tax | State General Fund | (\$8.9 M - \$14.8 M)         | (\$8.6 M - \$14.3 M)         |
| <b>TOTAL</b>                     |                    | <b>(\$60.2 M - \$98.8 M)</b> | <b>(\$58.9 M - \$96.3 M)</b> |

The revenue loss estimate assumes that levels of promotional free play provided by the riverboat casinos and racinos currently range from about 9% to about 15% of their AGR. This range is based on promotional spending reported by casinos in Pennsylvania and New Jersey. Some of the revenue loss from the promotional allowance deduction could be offset if the deduction induces additional promotional spending by the casinos and racinos, which in turn increases the aggregate amount of spending by gamblers in the state. A small portion of the wagering tax revenues from the French Lick casino is distributed to Indiana Economic Development Commission (IEDC). The revenue loss estimates are based on the Revenue Technical Committee forecast (December 17, 2012) for gaming revenue.

The racinos are also required to pay 15% of their annual slot machine AGR to the following purposes:(1) Tobacco Master Settlement Fund; (2) Gaming Integrity Fund; (3) the state Breed Development Funds; (4) private horsemen's associations; and (5) horse racing purses. A portion of the 15% payment that exceeds a specified annual cap is deposited in state General Fund. The promotional free play deduction is estimated to reduce the AGR that is the basis for the 15% payment. The reduction would not affect the payments to the state Gaming Integrity Fund and Tobacco Master Settlement because these payments are fixed dollar amounts. However the reduction would reduce revenue to the other purposes which are percentage distributions, including distributions to the state Breed Development Funds which are administered by the IHRC. The reduction also would impact the distribution to the state General Fund. The impact on state funds is summarized in the table below.

| <b>Revenue Type</b> | <b>Fund Type</b>         | <b>FY 2014</b>            | <b>FY 2015</b>             |
|---------------------|--------------------------|---------------------------|----------------------------|
| Racino 15% Payment  | Thoroughbred Breed Fund  | (\$0.4 M - \$0.7 M )      | (\$0.4 M - \$0.7 M)        |
| Racino 15% Payment  | Standardbred Breed Fund  | (\$0.5 M - \$0.9 M)       | (\$0.5 M - \$0.9 M)        |
| Racino 15% Payment  | Quarter Horse Breed Fund | (\$0.05 M - \$.09 M)      | (\$0.05 M - \$.09 M)       |
| Racino 15% Payment  | State General Fund       | (\$2.8 M - \$4.7 M)       | (\$2.7 M - \$ 4.6 M)       |
| <b>TOTAL</b>        |                          | <b>(\$3.8 M -\$6.4 M)</b> | <b>(\$3.7 M - \$6.3 M)</b> |

*Table Games at Racinos:* The bill allows the racinos to operate live table games potentially beginning in FY 2014. The bill also imposes a new table game wagering tax on live table games at the racinos. The graduated

tax rate structure of the table game tax is the same as that of the riverboat wagering tax. The estimated impact of live table games at the racinos is summarized in the table below.

| <b>Tax Type</b>         | <b>Fund Type</b>   | <b>FY 2014</b>           | <b>FY 2015</b>           |
|-------------------------|--------------------|--------------------------|--------------------------|
| Racino Table Games Tax  | State General Fund | \$13.1 M - \$12.2 M      | \$12.6 M - \$11.7 M      |
| Racino Slot Machine Tax | State General Fund | (\$4.2 M - \$4.0 M)      | (\$4.1 M - \$3.9 M)      |
| Riverboat Wagering Tax  | State General Fund | (\$8.2 M - \$7.1 M)      | (\$7.9 M - \$6.9 M)      |
| <b>TOTAL</b>            |                    | <b>\$0.7 M - \$1.1 M</b> | <b>\$0.6 M - \$0.9 M</b> |

The FY 2014 estimate assumes a full year of live table game operations at both racinos. Estimates are based on the share of the total AGR at Indiana riverboat casinos generated by table games. It is estimated that live table game operations at the racinos could displace: (1) gambling on virtual table games currently operated by the racinos; and (2) gambling on table games at competing riverboat casinos. The displacement of virtual table game activity would reduce slot machine wagering tax revenue from virtual table games. It is assumed that virtual table games generate about 7% of the AGR at the racinos and that half of that activity would shift to live table games. Displacement of table game play at competing riverboat casinos would reduce revenue from the riverboat wagering tax. It is estimated that about 44% of the racino AGR from slot machines is displaced from riverboat casinos. This estimate is based on the gaming revenue model adopted by the Revenue Technical Committee (December 17, 2012).

*Admissions Tax Replaced with a Supplemental Wagering Tax:* The bill repeals the \$3 per patron riverboat admissions tax and replaces it with a 2.5% supplemental riverboat wagering tax. It provides that local units and state agencies receiving admissions tax revenue, and the state General Fund, would receive supplemental wagering tax revenue in the same proportions as under the admissions tax. For local units, the State Fair Commission, and the Division of Mental Health that receive admissions tax revenue from riverboat casinos other than the French Lick casino, the supplemental wagering tax would be guaranteed up to the admissions tax distributions each of these entities received during FY 2002. Any shortfall in distributions to these entities would still have to be met through an annual supplemental distribution from the state General Fund. (Note: These distributions would also continued to be capped at the FY 2002 distribution level.) There is no such guarantee or cap for entities receiving revenue from the French Lick casino. Currently, 30.66% of the admissions tax revenues from the French Lick casino is distributed to the IEDC. The net impact on state funds from repealing the riverboat admissions tax and imposing the supplemental wagering tax on riverboats casinos is summarized in the table below.

| <b>Fund Type</b>   | <b>FY 2014</b>             | <b>FY 2015</b>             |
|--------------------|----------------------------|----------------------------|
| State General Fund | (\$5.0 M - \$5.5 M)        | (\$5.1 M - \$5.7 M)        |
| IEDC               | (\$0.3 M - \$0.3 M)        | (\$0.3 M - \$0.3 M)        |
| <b>TOTAL</b>       | <b>(\$5.3 M - \$5.8 M)</b> | <b>(\$5.4 M - \$6.0 M)</b> |

*Riverboat Relocation to Land-Based Facility:* The bill permits a riverboat casino owner to relocate gaming operations from the riverboat casino to a land-based facility without the approval of the Indiana Gaming Commission (IGC), provided the land-based facility: (1) is located on property adjacent to the dock site of the riverboat casino; and (2) complies with all applicable building codes and any safety requirements imposed by the IGC. The bill prohibits the riverboat owner from conducting gaming operations simultaneously at an inland casino and a docked riverboat. The bill also prohibits the IGC from imposing a fee for the privilege of relocating.

The potential fiscal impact of riverboat casinos around the state relocating to land-based operations is indeterminable and would depend on various factors, including ownership, facility attributes, market factors, and capital availability. In this case, relocation to a land-based facility next to the dock site of the riverboat casino will not affect the geographic markets currently served by the riverboat casinos.

*Mobile Gaming Devices at OTBs:* The bill would allow patrons at the Indianapolis OTB and the Ft. Wayne OTB to use mobile gaming devices to wager on slot machines and table games at the state's racinos. The bill defines "mobile gaming device" as an electronic device, including software, which: (1) displays information related to a gambling game; and (2) enables a patron to place a wager on a gambling game from a remote location using money placed into a deposit account. The bill limits requires an OTB to be at least 50 miles from a riverboat casino for mobile gaming devices to be allowed at the OTB. The bill limits to 50 the number of mobile gaming devices that can be used at an OTB. The bill specifies requirements for the devices and provides for approval by the IGC. The impact on overall slot machine or table game play is indeterminable. The devices could simply shift play to the two OTBs that would otherwise occur at the racinos or at riverboat casinos.

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Promotional Free Play Deduction for Riverboat Casino and Racinos:* The deduction reduces the taxable base for the riverboat wagering tax, some of which is distributed to local units, and the 3% county gambling game wagering tax (currently the county slot machine tax). The estimated revenue loss to local units receiving revenue from these taxes is summarized in the table below.

| <b>Local Unit</b>                        | <b>FY 2014</b>             | <b>FY 2015</b>             |
|--|----------------------------|----------------------------|
| Switzerland County                       | (\$0.0 M - \$0.3 M)        | (\$0.0 M - \$0.4 M)        |
| Michigan City                            | (\$0.2 M - \$0.9 M)        | (\$0.3M - \$1.1 M)         |
| Rising Sun                               | (\$0.3 M - \$0.5 M)        | (\$0.3 M - \$0.5 M)        |
| East Chicago                             | (\$0.1 M - \$0.2 M)        | (\$0.1 M - \$0.2 M)        |
| Gary                                     | (\$1.1 M - \$1.9 M)        | (\$1.1 M - \$1.9 M)        |
| French Lick                              | (\$0.1 M - \$0.2 M)        | (\$0.1 M - \$0.2 M)        |
| Orange County                            | (\$0.1 M - \$0.2 M)        | (\$0.1 M - \$0.2 M)        |
| Orange Co. Convention & Visitor's Bureau | (\$0.1 M - \$0.2 M)        | (\$0.1 M - \$0.2 M)        |
| Orleans                                  | (\$0.0 M - \$0.1 M)        | (\$0.0 M - \$0.1 M)        |
| Paoli                                    | (\$0.0 M - \$0.1 M)        | (\$0.0 M - \$0.1 M)        |
| West Baden Springs                       | (\$0.1 M - \$0.2 M)        | (\$0.1 M - \$0.2 M)        |
| Madison County                           | (\$0.4 M - \$0.7 M)        | (\$0.4 M - \$0.7 M)        |
| Shelby County                            | (\$0.5 M - \$0.8 M)        | (\$0.5 M - \$0.8 M)        |
| <b>TOTAL</b>                             | <b>(\$2.9 M - \$6.3 M)</b> | <b>(\$3.0 M - \$6.7 M)</b> |

*Table Games at Racinos:* The increase in net AGR from table games would result in an increase in the 3% gambling game wagering tax (currently the county slot machine wagering tax). The bill applies the current tax to AGR from table games and mobile gaming devices. This is estimated to result in additional revenue to Madison County and Shelby County. Madison county could receive an estimated \$0.9 M annually and Shelby county could receive an additional \$1.0 M annually from tax on table games. The county tax is currently 3% of slot machine AGR generated at the racinos during the fiscal year, up to a maximum of \$8.0 M in annual tax liability.

*Admissions Tax Replaced with a Supplemental Wagering Tax:* Local units receiving riverboat admissions tax revenue from the French Lick casino are estimated to experience a revenue loss due to the switch from the admissions tax to the replacement supplemental wagering tax. Since local units receiving riverboat admissions tax revenue from casinos other than the French Lick casino would continue to be guaranteed an amount equal to their FY 2002 admissions tax distribution, those local units would not be affected by the change. The estimated revenue loss to local units receiving admissions tax revenue from the French Lick casino is summarized in the table below.

| <b>Local Unit</b> | <b>FY 2014</b>               | <b>FY 2015</b>               |
|-------------------|------------------------------|------------------------------|
| Orange County     | (\$0.28 M - \$0.31 M)        | (\$0.28 M - \$0.32 M)        |
| Orleans           | (\$0.06 M - \$0.07 M)        | (\$0.06 M - \$0.07 M)        |
| Paoli             | (\$0.06 M - \$0.07 M)        | (\$0.06 M - \$0.07 M)        |
| French Lick       | (\$0.13 M - \$0.14 M)        | (\$0.13 M - \$0.14 M)        |
| West Baden        | (\$0.13 M - \$0.14 M)        | (\$0.13 M - \$0.14 M)        |
| <b>TOTAL</b>      | <b>(\$0.65 M - \$0.73 M)</b> | <b>(\$0.67 M - \$0.75 M)</b> |

**State Agencies Affected:** Indiana Gaming Commission, Indiana Horse Racing Commission, Department of State Revenues, Indiana Economic Development Commission.

**Local Agencies Affected:** Local Units with Riverboat and Racetracks.

**Information Sources:** Indiana Gaming Commission, Annual Report FY 2011-FY 2012; State Budget Agency, Build Indiana Fund Report FY 2011; OFMA, Casino Data; Revenue Technical Committee Forecast (December 17, 2012); Pennsylvania Gaming Control Board, Gaming Revenue Reports, FY 2010-FY 2012; New Jersey Casino Control Commission, Annual Report 2009-2011.

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